

REMARKS

Applicants have considered the Final Office Action of June 9, 2009, and the Advisory Action of August 21, 2009. Claim 1 has been amended. Claims 1-33 and 35-43 are pending. Reconsideration of the remaining claims in this application is requested.

Claims 1-33 and 35-43 were rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-32 of U.S. Patent No. 7,527,770. Applicants traverse the rejection.

Applicants submit a Terminal Disclaimer herein. Withdrawal of the rejection is requested.

Claims 1-15, 33, and 39-43 were rejected under 35 U.S.C. 112, first paragraph, as allegedly failing the written description requirement. Applicants traverse the rejection.

The Examiner stated that the term "artificial light source" was broader than the discussion in the specification and lacked explicit support. While noting that implicit support is present and sufficient (MPEP § 2163.B), Applicants have amended claim 1 to delete this term.

Claims 1-14, 33, and 39-43 were rejected under 35 U.S.C. 103(a) as allegedly being obvious over Nozik (US 4,011,149) in view of Grantham (US 4,203,814). Applicants traverse the rejection.

Applicants have amended claim 1 to recite additional elements surrounding the photolytic cell that relate to the capture of carbon dioxide and hydrogen in the form of a sugar. These elements are also present in allowed independent claim 19, and find support in both Figures 2 and 3 and the related text on pages 13-14 and 56-57 of the specification.

These elements are not present in the cited references.

Applicants request withdrawal of the 103(a) rejection.

Claim 15 was rejected under 35 U.S.C. 103(a) as allegedly being obvious over Nozik in view of Grantham and Gordon (US 4,650,554).

Applicants do not separately traverse this rejection at this time. Claim 1 is believed to be non-obvious, so its dependent claims are non-obvious as well. MPEP § 2143.03; *In re Fine*. Applicants request withdrawal of the rejection.

In the Advisory Action, the Examiner stated that the amendment to claim 1 raised new issues and required additional search. This RCE is filed so that additional search may be performed.

CONCLUSION


For at least these reasons, the pending claims (1-33 and 35-43) are in condition for allowance. Withdrawal of the rejections and issuance of a Notice of Allowance is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to call Richard M. Klein, at telephone number 216-363-9000, Cleveland, OH.

Respectfully submitted,
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